

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

DAVID J. THOMPSON,

Plaintiff,

v.

Case No. 24-CV-817

SGT. ZABORACKI, *et al.*,

Defendants.

ORDER

On April 21, 2025, the defendants filed a motion for partial summary judgment, seeking dismissal of defendant Hercenroden on the ground that *pro se* plaintiff David J. Thompson did not exhaust his administrative remedies for his claim against Hercenroden before filing this lawsuit. (ECF No. 18.) On April 24, 2025, the court issued a notice and order informing Thompson that he had until May 21, 2025, in which to file a response to the defendants' summary judgment motion. (ECF No. 22.) The court cautioned Thompson that if by that date he did not respond to the motion or file a letter explaining why he was unable to do so the court would accept all facts asserted by the defendants as undisputed.

The deadline has passed and Thompson has not filed a response to the defendants' motion. As such, the court will construe the motion as unopposed. The court has reviewed the defendants' motion, brief in support, and the undisputed facts, *see* Fed. R. Civ. P. 56(e)(2), and concludes that Thompson failed to exhaust his

administrative remedies as to the claim against defendant Officer Hercenroden. As such, summary judgment is granted in favor of Officer Hercenroden, and he is dismissed without prejudice. *See Chambers v. Sood*, 959 F.3d 979, 984 (7th Cir. 2020). The court will issue an amended scheduling order at a later date.

IT IS THEREFORE ORDERED that the defendants' motion for summary judgment (ECF No. 18) is **GRANTED**.

IT IS FURTHER ORDERED that Officer Hercenroden is **DISMISSED without prejudice**.

Dated at Milwaukee, Wisconsin this 7th day of July, 2025.

BY THE COURT

A handwritten signature in black ink, reading "William E. Duffin", written over a horizontal line.

WILLIAM E. DUFFIN
United States Magistrate Judge